

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-24358-CIV-JORDAN
MAGISTRATE JUDGE P.A. WHITE

SERGE DORVAL,	:	
	:	
Petitioner,	:	
	:	<u>REPORT RECOMMENDING TRANSFER</u>
v.	:	<u>OF VENUE</u>
	:	<u>28 U.S.C. §2241</u>
INS,	:	
	:	
Respondent.	:	

Serge Dorval, a prisoner currently confined in Waterproof, Louisiana, has filed a pro se petition for writ of habeas corpus pursuant to 28 U.S.C. §2241-43, seeking release from INS detention. Initially, the petitioner was confined in the Southern District of Florida and has since filed a change of address, and request for a transfer of venue. (DE#8)

The institution where the petitioner is confined is located in the Fifth Judicial Circuit, Waterproof, Louisiana.

The applicable venue provision for a §2241 action is 28 U.S.C. §2241(d), which provides concurrent jurisdiction in the district of confinement and the district of conviction, when a state conviction is attacked as unconstitutional. This petition does not attack the validity of a conviction, and the appropriate venue is therefore the district of confinement. See: Fernandez v. United States, 941 F.2d 1488, 1495 (11th Cir. 1991); Hajduk v. United States, 764 F.2d 795 (11 Cir. 1985); and United States v. Boccadisi, 468 F.Supp. 419 (E.D.N.Y. 1979).

An Order to show cause has been issued, however no government response has yet been filed. It is therefore recommended that the Clerk be directed to transfer this case to the District Court of the Fifth Judicial Circuit for Waterproof, Louisiana, pursuant to 28 U.S.C. §1406(a).

Objections to this report may be filed with the District Judge within fourteen days of receipt of a copy of the report.

Dated this 3rd day of January, 2011.



UNITED STATES MAGISTRATE JUDGE

cc: Serge Dorval, Pro Se
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